

**COMMITTEE ON LIMITED JURISDICTION COURTS
MINUTES**

Wednesday, October 27, 2010
10:00am to 2:15pm
Conference Room 119 A/B
State Courts Building
1501 W. Washington
Phoenix, AZ 85007

MEMBERS PRESENT:

Honorable Antonio F. Riojas
Ms. Carla F. Boatner
Mr. C. Daniel Carrion
Ms. Faye Coakley
Ms. Janet G. Cornell
Honorable Maria Felix
Honorable Sam Goodman
Honorable Eric Jeffery

Mr. Patrick Kotecki
Honorable Dorothy Little
Honorable Mary Anne Majestic
Honorable Arthur Markham
Ms. Marla Randall
Ms. Lisa Royal
Honorable J. Matias Tafoya
Ms. Valerie A. Winters

MEMBERS ABSENT:

Honorable Timothy Dickerson

Honorable Jeffrey A. Klotz

PRESENTERS/GUESTS:

Mr. Jerry Landau
Ms. Melinda Hardman
Mr. Stewart Bruner
Ms. Theresa Barrett

Ms. Patience Huntwork
Ms. Christi Weigand
Ms. Amy Wood

STAFF:

Mr. Mark Meltzer

Ms. Tama Reily

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

With a quorum present, the October 27, 2010, meeting of the Committee on Limited Jurisdiction Courts (LJC) was called to order by Judge Antonio Riojas, Chair, at 10:05 a.m.

Judge Riojas welcomed new member, Janet Cornell, court administrator for Scottsdale City Court, to the LJC.

B. Approval of Minutes

The draft minutes of the September 1, 2010, meeting of the LJC were presented for approval.

MOTION: To approve the September 1, 2010, meeting of the LJC as presented. Motion seconded. Passed unanimously. LJC-10-013.

II. Business Items and Potential Action Items

A. Legislative Update

Mr. Jerry Landau, AOC Director of Government Affairs, updated members on current legislative proposals that would impact limited jurisdiction courts. He focused his discussion on two particular proposals.

The first proposal would make technical changes to A.R.S. § 12-269, which pertains to probation funding in Maricopa County, so that the statute conforms to A.R.S. § 12-114.01, which covers probation funding in the remaining 14 counties and was amended in the last session. Mr. Landau indicated that this would ensure statewide uniformity in the application of the probation assessment. He informed members that the proposal was approved by AJC to be included in the legislative package.

The second proposal would allow the board of supervisors to authorize justice courts to use home detention for eligible defendants. Currently, home detention is not an option for justice courts, yet they frequently have a need to utilize it. For example, defendants with certain medical conditions may be denied admission to the jail by the county Sheriff. Mr. Landau reported that without the use of a home detention program, the court may be unable to impose appropriate sanctions. He did note that the proposed legislation, in its current form, includes a mandatory *minimum* jail term that is served prior to beginning home detention.

A discussion on this matter followed. Several members reported having situations with defendants in a state of limbo due to rejection by the jails. Alternatives such as the County hospital, or the medical floor in the county jail, were viewed as non-viable options due to the increased cost. The cost savings potential of home detention programs as a result of reduced jail costs was noted. In addition, defendants are typically responsible for the costs of home detention. Several members discussed the positive aspects they have observed with their courts' home detention programs.

MOTION: To support the proposal to permit the County Board of Supervisors to authorize justice courts' use of a home detention program similar to the program used in municipal courts. Motion seconded. Passed unanimously. LJC-10-014

B. Draft Revisions to Supreme Court Rule 124

Mr. Stewart Bruner, AOC Manager of Strategic Planning in the Information Technology Division, and Ms. Melinda Hardman, AOC Court Analyst in the Court Services Division, presented the current draft of the revised Supreme Court Rule 124; Electronic Filing, Delivery, and Service of Documents, which they previously presented at the September LJC meeting. Mr. Bruner briefly reviewed the history of SCR 124. He discussed the activities that have transpired since September, the current efforts to address both the functional and technical aspects of e-filing in one packet, and some of the rule's key policies. At this point they are seeking input from AJC standing committees. He added that public comments will be solicited through May after the filing of the formal rule petition in January 2011. Furthermore, he noted that technical documents will be added after the filing of the rule petition, but will maintain the same effective date as the rule.

Members had several questions as to the e-filing process and requirements. Mr. Bruner and Ms. Hardman clarified where possible, however, they noted that there were some technical and procedural issues that are not yet resolved. The following information was provided:

- Filings will go to through the Clerk's office before going to the judge's office.
- Regarding document authenticity, the printed version of an electronic copy will be as valid as an original hard copy.
- Opposing attorneys will receive notification from AZTurboCourt when a pleading has been filed. They will then be able to log into AZTurboCourt to view the filing.
- Courts are being encouraged to provide electronic service as much as possible - Administrative Order requires the courts to serve minute entries and orders, although currently, this only applies to general jurisdiction courts.
- It will be optional for self-represented litigants to file cases electronically. If they choose to use Turbocourt, they will be bound by the same rules as users in the court community.
- E-filing requirements include a provision that attorneys provide a current-email address on all documents submitted to the court, whether electronic or paper.

MOTION: To recommend that AJC approve revisions to Rule 124; Electronic Filing, Delivery and Service of Documents as presented. Motion seconded. Approved unanimously. LJC-10-015

C. Amendments to ACJA § 5-206: Fee Deferrals and Waivers

Mr. Patrick Scott, AOC Court Services Division, presented proposed amendments to ACJA § 5-206; Fee Deferrals and Waivers. Mr. Scott provided a brief overview of the code section and its purpose, which is to provide access to the courts for litigants who are unable to pay court fees. He explained the

recommended changes arise from reports that costs are not being adequately deferred the way the code is currently written. He discussed some of the substantive changes, which include allowing for a waiver of fees upon application in addition to some technical changes that were made to bring the code up to date.

A member commented that the amended code requires litigants to “establish by affidavit with supporting documentation” for the deferral process, but there is no similar requirement mentioned under the waiver process. Mr. Scott agreed that the language should read the same for the waiver process.

MOTION: To recommend approval of amendments to ACJA § 5-206: Fee Deferrals and Waivers, with changes as discussed. Motion seconded. Approved Unanimously. LJC-10-016

D. Disaster Preparation: The Louisiana Example

Ms. Janet Cornell gave a presentation on the effects of Hurricane Katrina on the Orleans Parish Criminal District Court, and discussed the knowledge that the court community could gain from challenges the Louisiana courthouse experienced in the aftermath of the natural disaster. Noting the inability of the court to conduct even the basics of business, Ms. Cornell stated that her court has developed an “emergency box”, that is kept off the court premises, containing such basics as the statutes and rules of court, blank court forms, a cd containing all of the court forms, pens, pencils, yellow pads, tape, and various other items necessary to carry on with minimal business. She encouraged other courts to create a similar kit.

E. Rules Update

Ms. Patience Huntwork, Staff Attorney to the Arizona Supreme Court, updated the committee on recent Supreme Court rules that may be of interest or that may impact limited jurisdiction courts. The rules can be viewed on the [Rules webpage](#). Some of the rules Ms. Huntwork highlighted are as follows:

Promulgate Rule RE Jury Service by Court Employees/ R-09-0016

This rule was proposed by a citizen, and would have prohibited court employees from serving jury service. The proposal was rejected.

Rules 45 and 84, Arizona Rules of Civil Procedure/ R-09-0035

This was essentially a major revision of the rule on subpoenas, and clarified how to object to different types of subpoenas. The modified version provides a more specific rule with headings and plain English, delineating the types of subpoenas and the way in which to object. The new rule goes into effect January 1, 2011.

Rule 4.1, Arizona Rules of Civil Procedure/ R-10-0002

This rule proposed that photo radar citations be served on the vehicle owner via first-class mail. This proposal was rejected.

Rule 1, Appellate and Trial Court Appointments/ R-09-0041

This rule petition proposed changes to attorneys' and judges' codes of conduct and to the State Bar's diversity policy. This proposal was rejected.

Rule 6, Rules of Protective Order Procedure/ R-09-0026

Would amend Rule 6(C) to conform with amendment to A.R.S. § 13-3601(A).

Rule 6(E)(4)(e)(2), Rules of Protective Order Procedure/R-09-0045

Would repeal the provision authorizing judges to prohibit defendants from possessing or purchasing firearms and ammunition for the duration of the protective order on the basis that the provision is unconstitutional. The proposal was rejected, however, it was believed that the petitioner had some arguments deserving of further consideration, therefore, the matter was forwarded to the Family Law Section of the State Bar. Their task is to consider and develop standards to guide judges in their decisions to prohibit possession of firearms.

Rule 1(D)(4), Rules of Protective Order Procedure/ R-10-0013

This petition would permit the court to direct a defendant to remain in the courtroom for a period of time after the plaintiff is excused only in cases in which an order of protection remains in force. This proposal was rejected.

Rule 1(B)(1)(d), Rules of Protective Order Procedure/ R-10-0014

This petition would replace the term "victim" in the rules with "plaintiff" or, in appropriate situations, "alleged victim". The proposal was rejected.

F. Entry of Guilty Pleas by Mail

In the absence of member Judge Dickerson, Mr. Mark Meltzer, AOC Staff to the LJC, gave a brief history of the pleas by mail proposal, Rule 17.1(a)(4), and updated members on its current status. Since the September LJC meeting, the draft rule proposal has been presented to the Committee on Victims in the Court (COVIC) and the Limited Jurisdiction Court Administrators Association (LJCAA), receiving approval from both, with the exception of some suggested revisions by the LJCAA. The suggested revisions were incorporated and included in the draft presented today. In addition, a Form 28(a) instruction sheet has been drafted and is presented for approval along with the proposed Rule 17.1(a)(4).

During discussion, there was some question as to the instruction form's reference to school-teachers. Some courts noted they already include the reference to schoolteachers in pleadings and understand it to be required by statute. However, other courts do not follow the practice and noted that it is not included in the rules for telephonic pleadings. Member consensus was to strike the reference to schoolteachers.

MOTION: To recommend the AJC approve proposed Rule 17.1(a)(4) as presented, with stricken language as discussed. Motion seconded. Passed unanimously. LJC-10-017

MOTION: To recommend ACJ approval of Form 28(a) as presented, with changes as discussed. Motion seconded. Passed unanimously. LJC-10-018

G. FARE Update

Ms. Christi Weigand, Manager of the AOC Consolidated Collections Unit, provided a brief update on the Fines Reduction Project. She noted they began piloting the program with the Flagstaff justice and municipal courts in early September with the oldest cases. To date, about \$30,000 has been collected, but they expect the majority of payments will likely be made toward the end of the payment period. She stated they will be using performance measures after the project ends including tracking receivables from courts. Ms. Weigand offered to come back to future LJC meetings to update the committee on the results of the project.

H. AZ Turbo Court Update

Ms. Amy Wood, Manager of the AOC Caseflow Management Unit, updated members on the AZTurboCourt project. She reviewed the types of forms being developed; the intelligent form, which is targeted to the pro se litigants and walks them through the process, and the attached pleading, which is more suited to attorneys. She also reviewed the various forms in production as print forms. Ms. Wood reported that there are currently attorneys filing into Maricopa County superior court through AZTurboCourt and this continues to increase in volume. The initiation of civil pleadings is under development with the Pima County Superior Court. In November, the appellate courts expect to begin a pilot. She added that civil subsequent filings into Maricopa superior court will begin moving to mandatory e-filing in January. Notification will go out to attorneys within the next few weeks. Training is being set up and she emphasized it will be a phased in process.

Ms. Wood provided two links where members can find additional information and continued updates about policy issues and AZTurboCourt:

- <http://www.azcourts.gov/cot/EFilingPolicyIssues.aspx>
- <http://supreme22/azturbocourtinfo/Forms.html>

I. LJC Representative to the Committee on Probation

Since the departure of LJC member Doug Pilcher, who served as the LJC representative to the Committee on Probation (COP), the LJC's seat on COP is vacant. Current LJC member Mr. Daniel Carrion volunteered to assume this role.

J. 2011 Meeting Dates

Judge Riojas, Chair, informed members of the proposed 2011 meeting dates, which are as follows:

- January 26, 2011
- May 11, 2011
- August 31, 2011
- October 19, 2011

All meeting dates will fall on Wednesdays.

MOTION: To approve the proposed 2011 LJC meeting dates as presented. Motion seconded. Approved unanimously.
LJC-10-019

III. OTHER BUSINESS

A. Good of the Order/Call to the Public

No comments offered.

B. Next Meeting:

Wednesday, January 26, 2011
10:00am to 2:30pm
Conference Room 119 A/B
State Courts Building

Meeting was adjourned at 2:07 p.m.